

October 30, 1980

GSA BULLETIN FPMR B- 106
ARCHIVES AND RECORDS

TO: Heads of Federal agencies

SUBJECT: Disposition of personal papers and official records

1. Purpose. This bulletin summarizes the requirements of Federal law and related regulations and reminds heads of all Federal agencies of their legal responsibilities to (a) inform agency officials and personnel about established procedures for maintaining personal papers and (b) ensure the security and integrity of Federal records.

2. Expiration date. This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. Action to be taken by agency heads.

a. Heads of all Federal agencies are responsible for ensuring that agency officials and employees are fully informed of requirements of Federal law concerning official records held by their agencies. Agency heads should review agency records management programs and determine whether adequate safeguards exist against the loss of Federal records. To ensure adequate safeguards:

(1) Employees must be acquainted with Federal law governing disposition of official records. Removal or destruction of Federal records should occur only with authorization of NARS-approved records control schedules or general records schedules.

(2) Employees must be aware of the criminal penalties that are attached to unlawful removal or destruction of Federal records. Employees also must be aware of their legal responsibility to inform responsible officials of any actual or threatened unlawful loss or removal of official records.

(3) Employees must be aware of the requirement for identifying and maintaining personal papers separately from official records. Responsible officials should regularly monitor compliance with this requirement.

b. Effective methods to bring these legal requirements to the attention of agency employees include issuance of circular memorandums containing written instructions and discussions held during orientation and debriefing sessions, especially those held for senior executives.

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c. Requirements of Federal law governing removal or destruction of Federal records should be incorporated into agency files maintenance manuals and records control schedules. Adequate and proper separation and control of personal papers is essential to ensure the security and integrity of Federal records.

4. Background.

a. 44 U.S.C. 3301 legally defines "Federal records" to include:

...all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included.

b. FPMR 101-11.202-2(d) provides a legal definition of personal papers and prescribes standards for their maintenance:

Papers of a private or nonofficial character which pertain only to an individual's personal affairs that are kept in the office of a Federal official will be clearly designated by him as nonofficial and will at all times be filed separately from the official records of his office. In cases where matters requiring the transaction of official business are received in private personal correspondence, the portion of such correspondence that pertains to official business will be extracted and made a part of the official files....

c. The definition of official records involves materials made or received either under Federal law or in connection with the transaction of public business. The definition of personal papers covers material pertaining solely to an individual's private affairs. For example, correspondence designated "personal," "confidential," or "private," etc., but relevant to the conduct of public business, is an official record subject to the provisions of Federal law pertinent to the maintenance and disposal of these records. Official records are public records and belong to the office rather than to the officer.

d. The legal definition of records (44 U.S.C. 3301) specifically excludes "extra copies of documents preserved only for convenience of

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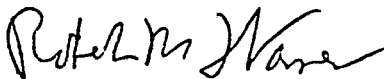
reference." These extra copies of documents are commonly regarded as nonrecord materials and are disposable without reference to the requirements of chapter 33, title 44, U.S. Code. Although these materials cannot be considered as personal papers, a Government official may accumulate for convenience of reference extra copies of papers and other materials which he or she has drafted, reviewed, or otherwise acted upon. When deposited in a research institution, extra copies can serve the needs of historical scholarship. Government officials may be permitted to retain these extra copies, provided that retention would not (1) diminish the official records of the agency; (2) violate confidentiality required by national security, privacy, or other interests protected by law; or (3) exceed normal administrative economies.

e. Federal law (44 U.S.C. 3105) requires heads of Federal agencies to establish safeguards against the removal or loss of Federal records. These safeguards include notifying agency officials that (1) the alienation and destruction of records in agency custody is governed by specific provisions of chapter 33, title 44, U.S. Code, and (2) criminal penalties are provided for the unlawful removal or destruction of Federal records (18 U.S.C. 2071) and for the unlawful disclosure of certain information pertaining to national security (18 U.S.C. 793, 794, and 798).

f. Federal law (44 U.S.C. 3106) requires heads of Federal agencies to notify the Administrator of General Services of any actual or threatened unlawful removal or destruction of records in their custody. The Archivist of the United States has been delegated authority to assist agency heads in initiating action through the Attorney General of the United States for the recovery of records unlawfully removed.

5. Assistance to agencies. The National Archives and Records Service will assist agencies in appraising a body of materials and determining whether it comprises personal papers or official records. Oral requests for assistance should be directed to the Records Disposition Division, Office of Federal Records Centers (202-724-1625). Written requests should be forwarded to the General Services Administration (NC), Washington, DC 20408.

6. Cancellation. GSA Bulletins FPMR B-65, and B-99 are canceled.



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